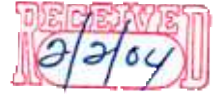


Swann, Pam

From: Sdetka@aol.com%INTER2 [Sdetka@aol.com] on behalf of Sdetka@aol.com
Sent: Monday, February 02, 2004 9:54 AM
To: DocketClerk, MOAB
Subject: Comments on Organic Exemption from Promotion/Marketing Orders

February 2, 2004



Docket Clerk
Marketing Order Administration Branch
Fruit and Vegetable Programs, AMS
U.S. Department of Agriculture
1400 Independence Avenue, SW
STOP 0237
Washington D.C. 20250-0237

RE: CFR Part 900

[Docket Number FV03-900-1 PR]
Federal Register: December 2, 2003 (Volume 8, Number 231), page 67381-67385
Proposed Rule to Exempt Organic Producers and Marketers From Assessments for
Market Promotion Activities Under Marketing Order Programs

Dear Sir-

On behalf of the members of the National Organic Coalition, I am writing to offer comments on the proposed rule.

In general, the members of the National Organic Coalition (NOC) would like to thank the Agricultural Marketing Service for the proposal to exempt organic producers and marketers who participate in federal marketing orders that include promotion activities from paying assessments for the promotion aspects of those orders. In addition, we look forward to the forthcoming proposed rule dealing with exemptions from assessments paid for promotion programs that are not connected with marketing orders. We believe that the exemption from both types of promotion programs are in keeping with the intent of Section 10607 of the Farm Security and Rural Investment Act of 2002.

The Rights of the Person Seeking the Exemption Need to Be Strengthened;
Responsibilities of the Committee or Board Reviewing the Application for Exemption
Must be Enumerated.

While supportive of the general intent of the proposed rule, NOC believes that the rights of the qualified applicant seeking the exemption must be clarified and strengthened, and that the responsibilities of the marketing order committee or board hearing the applicant's petition must be more clearly defined

Under the proposed rule, the person seeking an exemption is required to submit an application for exemption to the applicable marketing order committee or board. As part of that application, according to the proposed rule, the 100 percent organic producer or handler would be required to submit a copy of the organic farm or handling operation certificate provided by a USDA-accredited certifying agent under the Organic Foods Production Act of 1990, as well as a signed certification that the applicant meets all of the requirements specified for an assessment exemption.

While the proposed rule specifies a few of the procedures that a marketing order committee or board will use in calculating the rate of exemption for a person it determines to be qualified for the exemption, clear language should be added to the rule that creates a presumption of exemption for the person providing the necessary paperwork to the marketing order committee or board. As currently drafted, the proposed rule leaves a great deal of discretion to the

marketing order committee or board as to whether to grant or deny the application for exemption, making only a vague reference that "[t]he Secretary may review any decisions made by the committee or boards at his/her discretion." The final rule should clarify that a person meeting the requirements of the application is presumed to be exempt, and should further clarify the circumstances under which an applicant can be denied such exemption.

In addition, in the event that an applicant is denied, a very clear appeals process must be specified within this rule, detailing the steps that an applicant can take to appeal a denial of their application by the marketing order committee or board, and the rights of the applicant in that process. The appeals process should be made clear in the text of this rule, even though the generic process for appeals under marketing orders may be described in other regulations.

Unless the rights of the applicant and the corresponding responsibilities of the marketing order committee or board are more clearly defined in the regulation, this process will become very cumbersome and frustrating for all involved. The process for exemption can and should be simple.

Thank you for considering these comments

Sincerely,

Steven D. Etko
Legislative Coordinator